

ADMINISTRATIVE PANEL DECISION

Tata Motors Limited v. Fred B

Case No. D2023-0431

1. The Parties

The Complainant is Tata Motors Limited, India, represented by De Penning & De Penning, India.

The Respondent is Fred B, India.

2. The Domain Name and Registrar

The disputed domain name <tatacurvv.com> is registered with GoDaddy.com, LLC (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on January 31, 2023. On the same day, the Center transmitted by email to the Registrar a request for registrar verification in connection with the disputed domain name. On February 1, 2023, the Registrar transmitted by email to the Center its verification response disclosing registrant and contact information for the disputed domain name which differed from the named Respondent (Domains By Proxy LLC) and contact information in the Complaint.

The Center sent an email communication to the Complainant on February 2, 2023 providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amended Complaint on February 3, 2023.

The Center verified that the Complaint together with the amended Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on February 6, 2023. In accordance with the Rules, paragraph 5, the due date for Response was February 26, 2023. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on February 27, 2023.

The Center appointed Meera Chature Sankhari as the sole panelist in this matter on March 2, 2023. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and

Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is India's largest automobile company and is amongst the top five commercial vehicle manufacturers in the world. The Complainant belongs to the well-known Tata Group of Companies. The Complainant is scheduled to launch a "Compact SUV", as TATA CURVV in April 2024, which was showcased at the Auto Expo 2023. Several reviews and articles have been written by car enthusiasts in various third party portals, including the Times Drive, Auto Expo, PowerDrift, MotorOctane, etc. and the Complainant has provided the links thereto.

The word "Tata" forms a part of the corporate name of the Complainant as is proven by the Incorporation Certification provided by the Complainant. The Complainant uses the trade name "Tata" in the course of business on their letterheads, printed materials, goods, services, etc. In addition, the Complainant owns several domain name registrations including <tatamotors.com>, <tatasafari.com>, and <tatatigor.com>, which are active.

TATA is a trademark owned by the parent company, Tata Sons Ltd. which also holds significant shareholdings in their subsidiaries ("Tata companies"). The Complainant claims that the trademarks with TATA as a component are used by various Tata companies, including the Complainant herein, under a license from Tata Sons Ltd.

The trademark TATA and its variants are registered in various classes and the earliest registrations date back to 1951. The trademark TATA (device) is registered in the name of the Complainant in India under registration number No. 299110 since 1974, and the TATA CURVV mark under registration number 5371109, since March 15, 2022, in the name of the parent company, both in Class 12.

The disputed domain name <tatacurvv.com> was registered on April 23, 2022. According to the evidence provided with the Complaint, the disputed domain resolved to a Registrar parked site, which included pay-per-click ("PPC") sponsored links, related with the automotive industry. Currently, the disputed domain name resolves to Registrar parked site, with no PPC links.

5. Parties' Contentions

A. Complainant

The Complainant contends that the word "Tata" belonging to the Tata group of companies connotes the distinctiveness, reputation, quality and goodwill acquired over several years in and is understood as connoting an association with the iconic TATA group of companies. That in view of the celebrated status of the trademark TATA the associated reputation has percolated to other TATA variants including TATA CURVV. Thus, the adoption and/or usage of TATA CURVV would amount to dilution of the Complainant's rights over the mark TATA and result in misuse of the trademark for individual benefit and is liable to be prevented.

The Complainant has requested for the transfer of the disputed domain name on the following grounds:

- A. that the disputed domain name is identical or confusingly similar to trademarks in which the Complainant has both statutory rights & common law rights and that:
 - i) the trademark TATA CURVV is nothing but a variant of the well-known trademark TATA and has therefore naturally acquired the status of a well-known mark;

- ii) it relies on the exclusive statutory right over TATA and TATA CURVV independently.
 - iii) the Respondent illegally and wrongfully adopted the well-known trademark TATA of the Complainant with the intention to create an impression of association, to utilize the reputation having full knowledge of the Complainant's iconic stature in India and internationally.
 - iv) The Complainant has not licensed or otherwise permitted the Responding to use its TATA CURVV mark nor permitted the Respondent to apply for or use any domain name incorporating the marks TATA/ TATA CURVV and that when the Complainant has no connection with the disputed domain name holder, such use of the disputed domain name is considered evidence of bad faith registration and use under the UDRP.
 - v) The Complainant has enormous presence on the Internet, which is provided by the ownership of various domain names consisting of the trademark TATA.
- B. The Respondent has no right or legitimate interests in respect of the disputed domain name because the Respondent has not made any legitimate offering of goods or services under the mark TATA or TATA CURVV through the disputed domain name. In fact the disputed domain name gets redirected to the site for the sale of cars. The Respondent is misrepresenting an association with the Complainant and illegally soliciting online traffic to their website and misappropriating the reputation of the Complainant's trademark TATA to monetize on the disputed domain name.
- C. That as held in the various precedents, the domain names are fast emerging corporate assets and have evolved as a fulcrum of a company's visibility and marketing operations. Hence, it becomes critical that unscrupulous individuals are not allowed to usurp well-known trademarks and domain names to unfairly benefit from such acts, which is an act of bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

To transfer the disputed domain name from the Respondent, the Complainant must prove the following element as per paragraph 4(a) of the Policy:

- (i) that the domain name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and
- (ii) that the Respondent has no rights or legitimate interests in respect of the domain name; and
- (iii) the domain name has been registered and is being used in bad faith.

Paragraph 15(a) of the Rules instructs the Panel to decide a complaint "on the basis of the statements and documents submitted and in accordance with the Policy, these Rules and any rules and principles of law that it deems applicable".

Further, since the Respondent has not submitted its reply in the case at hand, this Panel finds it appropriate case to "decide the dispute based upon the complaint" as per paragraphs 15(f) read with paragraphs 14(a) and 14 (b) of the Rules.

Having considered the Complainant's case and the evidence available, the Panel finds as follows.

A. Identical or Confusingly Similar

The Complainant has established the common law and statutory rights in the trademarks TATA on its own, and the ownership of the mark TATA CURVV by its parent company. As per Section 1.4.1 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition ("[WIPO Overview 3.0](#)"), a trademark owner's affiliate such as a subsidiary of a parent or of a holding company, or an exclusive trademark licensee, is considered to have rights in a trademark under the UDRP for purposes of standing to file a complaint. In the current matter, the Complainant is a related subsidiary of the parent company, which holds TATA CURVV.

The Panel finds that the disputed domain name, <tatacurvv.com> is identical to the registered trademarks "TATA CURVV" and to "TATA", in which the Complainant has established interests.

See *Tata Motors Ltd. v. Tata Hbx*, WIPO Case No. [D2021-0205](#) (<tatahbx.com>) and *Tata Motors Ltd. v. Hunny Bindra*, WIPO Case No. [D2019-2527](#) (<tataintra.com>).

B. Rights or Legitimate Interests

The Complainant has established *prima facie* that the Respondent has no rights or legitimate interests in the disputed domain name is <tatacurvv.com>, by demonstrating the following:

- i) that the Respondent is not related in any way with the Complainant;
- ii) that neither license nor authorization has been granted to the Respondent to make any use of the Complainant's trademark TATA and/or TATA CURVV or apply for registration of the disputed domain name by the Complainant;
- iii) the Respondent used the domain name for a parking page with third party PPC links that divert traffic to third party websites not affiliated with Complainant (Annexure 6).

The Respondent is not using the domain name in connection with a *bona fide* offering of goods or services, or a legitimate non-commercial or fair use but instead the domain name is redirected to the site for the sale of cars. As per Section 2.9 of [WIPO Overview 3.0](#), such links, which capitalize on the reputation and goodwill of the Complainant's mark or mislead Internet users do not represent *bona fide* offering. See section 2.9 of [WIPO Overview 3.0](#). See *Merck Sharp & Dohme Corp. v. Domain Administrator, PrivacyGuardian.org / George Ring, DN Capital Inc.*, WIPO Case No. [D2017-0302](#) (<gardasilvaccine.com>).

The Panel finds the Complainant has made a *prima facie* case that the Respondent lacks rights or legitimate interests in the disputed domain name. The second requirement under paragraph 4(a) of the Policy, has been fulfilled by the Complainant.

C. Registered and Used in Bad Faith

As per Section 3.1.4 of the [WIPO Overview 3.0](#), mere registration of a domain name that is identical or confusingly similar to a famous or widely-known trademark by an unaffiliated entity can by itself create a presumption of bad faith. The Panel has no doubt that the Complainant's registered trademark TATA is famous and widely-known in India and internationally and TATA CURVV has been publicized leading to considerable reputation in India and globally, through its wide Internet presence.

The Respondent has no relation whatsoever with the trademark TATA or TATACURVV and yet has obtained the registration of the disputed domain name, using the registered trademark TATA CURVV in its entirety. The Panel is left with no doubt that by doing so, the Respondent has deliberately and knowingly attempted to trade upon the goodwill enjoyed by these famous and renowned trademarks, with the ulterior motive of gaining unlawful commercial gains, which is clearly depicted by the fact that the website gets redirected to a site for the sale of cars, which all point in the direction of action in bad faith. See *Barclays Bank PLC v.*

PrivacyProtect.org / Sylvia Paras, WIPO Case No. [D2011-2011](#) (<barclayspremiercapitalinc.com>) and *Swarovski Aktiengesellschaft v. WhoisGuard Protected / Peter D. Person*, WIPO Case No. [D2014-1447](#) (<swarovskimarket.net>).

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the disputed domain name, <tatacurvv.com> be transferred to the Complainant.

/Meera Chature Sankhari/

Meera Chature Sankhari

Sole Panelist

Date: March 16, 2023